

LAW OFFICES OF
FRED L. SEEMAN
32 BROADWAY, SUITE 1214
NEW YORK, NEW YORK 10004

FRED L. SEEMAN, ESQ.

FRED@SEEMANLAW.COM

PETER M. KIRWIN ESQ.

PETER@SEEMANLAW.COM

ALEX TAVAREZ, OFFICE MANAGER

TEL: (212) 608-5000

FAX: (212) 385-8161

WWW.SEEMANLAW.COM

December 23, 2020

Honorable Katherine Polk Failla
Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square—Courthouse 618
New York, New York 10007

Re: (1) Response to Plaintiff's Letter Motion dated December 18, 2020
Antolini v. N Corporation, et. al.
Docket 1:19-CV-07385
Our File: F10592

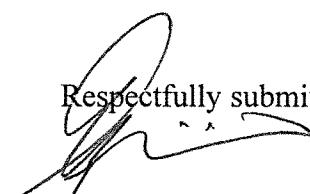
Dear Judge Failla:

We are the attorneys for the answering Defendants in this action. We write this letter in response to Plaintiff's letter motion dated December 18, 2020 [Dkt. No. 91].

The Plaintiff seeks to dismiss "some" of his State claims and proceed to a bench trial. It is not clear from Plaintiff's letter if the Plaintiff seeks to dismiss all claims that can be tried by a jury. FRCP 38(d) provides that a proper jury trial demand "may be withdrawn only if the parties consent". Moreover, FRCP 39(a) provides that when a jury trial has been demanded, "[t]he trial on all issues so demanded must be by jury unless: (1) the parties or their attorneys file a stipulation to a nonjury trial or so stipulate on the record; or (2) the court, on motion or on its own, finds that on some or all of those issues there is no federal right to a jury trial."

The Defendants do not object and would be willing to stipulate to a nonjury trial before your honor or a Magistrate Judge providing all claims that can be tried by jury, including Plaintiff's claims under the Second, Third, Fourth, and Fifth causes of actions are dismissed.

As always,


Respectfully submitted,
Peter Kirwin

cc: Stuart Finkelstein, Esq, via ECF